

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR.

J U D G M E N T.

MAHAVEER @ KRISHAN V. THE STATE OF RAJASTHAN.
AND BALVEER.

S. B. CRIMINAL APPEAL NO. 834/2001,
under Section 374, Cr.P.C., against the Judgment
dated 28.09.2001, passed by Shri Ummaid Singh
Solanki, RHJS, Additional District & Sessions Judge,
Nohar, District Hanumangarh (Rajasthan), in
Sessions Case No. 1/2001 (State v. Mahaveer @
Krishan and Balveer).

DATE OF JUDGMENT: :29.03.2006

PRESENT.

HON'BLE MR. JUSTICE R. P. VYAS

Mr.M.K.Garg, for Appellants.
Mr.V.R.Mehta, Public Prosecutor, for
the State of Rajasthan.
Mr.Vijay Bishnoi, for Complainant.

BY THE COURT:

This Criminal Appeal under Section 374 of the Code of Criminal Procedure is directed against the judgment dated 28.09.2001, passed by the learned Additional District & Sessions Judge, Hanumangarh, whereby he convicted and sentenced accused-appellants Mahaveer @ Krishan S/o. Budhram and

Balveer S/o. Jaswant under Section 376 (2) (g), IPC, to ten years Rigorous Imprisonment and a fine of Rs.10,000/- each, in default of payment of fine, to further undergo 3 months' Rigorous Imprisonment; and under Section 447, IPC, one month's Rigorous Imprisonment. All the sentences were directed to run concurrently. Out of the amount of fine, a sum of Rs.10,000/- was directed to be paid to victim - Smt.Roshni W/o. Omprakash as compensation.

Brief facts, giving rise to the instant appeal, are that on 11.10.2000, at 8.00 P.M., Smt.Roshni W/o. Omprakash, by caste Jat, aged 25 years, R/o. Kharsadi lodged a verbal report with the Police Stationm Nohar, District – Haunmangarh stating therein that prior to the two days of the occurrence, her husband had gone to bring Parani and had not still returned. Her brother-in-law ('devar') Mahendra Singh is looking after the field. On the day of the occurrence, she had gone to the field to serve food to her brother-in-law. He took the lunch and, thereafter, by leaving her in the field, her brother-in-law (Mahendra Singh) went to look after another field. The prosecutrix was sitting all alone in the hut ('Jhompari'), where Mahaveer who is also called by the name of Krishan S/o. Budhram Jat and Balveer S/o.Jaswant Jat, both residents of village Kharsadi, came to her. Mahaveer cought-hold her hand and fropped her on the ground and he pulled out the 'nara' of her salvar, which ('nara') was cut

and resulted into two pieces and, thereafter, opened the underwear and trouser and committed sexual intercourse with her against her wishes. While the prosecutrix started to raise hue and cry, he threatened to do her away. In the field, there was none to hear her hue and cry. After committing sexual intercourse, when he (Mahaveer) started to leave the place, in the meanwhile, Balveer (another accused) came to her. He also forced her and committed sexual intercourse with her against her wishes. When she (the prosecutrix) against started to raise hue and cry, the accused (Balveer) threatened her to kill and committed sexual intercourse with her. After committing the sexual intercourse, both the accused, i.e., Mahaveer and Balveer threatened her that in case of disclosing this incident to anyone, she would be done away by them. When she left the hut, after committing sexual intercourse with Smt. Roshni (the prosecutrix), her brother-in-law Mahendra Singh came to the field, she was found weeping by putting on her clothes properly. Her brother-in-law Mahendra Singh asked her as to what has happened, upon which she narrated the whole story to him. On hearing the story of rape, her brother-in-law Mahendra Singh went after the accused, but could not catch them as both the accused were running fast towards the village. Thereafter, the prosecutrix came to her house along with her brother-in-law Mahendra Singh. Her sister was not at home and had gone to

village. Mahendra Singh – the brother-in-law of the prosecutrix narrated the entire story to her 'Jeth' Dharampal. It was also stated by the prosecutrix that now she has come to the Police Station, Nohar along with her brother-in-law Mahendra Singh to lodge a complaint that both the accused (one by one) have forcibly committed rape with her against her wishes. So, the action in accordance with law may be taken against both the accused.

On the basis of the verbal report lodged by the prosecutrix, FIR No. 386 dated 11.10.2000, under Section 447, 376 and 34, IPC, was registered against the accused-appellants and investigation commenced. It may be mentioned that at the time of lodging the complaint, bruise injuries on wrist, neck and legs of the prosecutrix were also observed by the SHO.

During the course of investigation, site plan (Ex.P-9) was prepared, salwar of the prosecutrix was seized and sealed vide Ex.P-10, accused Mahaveer @ Krishan was arrested vide Ex.P-1, his underwear was seized and sealed vide Ex.P-3, accused Balveer was arrested vide Ex.P-2, his underwear was seized and sealed vide Ex.P-4, the prosecutrix was got medically examined and her medical examination report was obtained vide Ex.P-5, accused Balveer was got medically examined and his medical

examination report was obtained vide Ex.P-6, accused Mahaveer was also got medically examined and his medical examination report was also obtained vide Ex.P-7, FIR was drawn vide Ex.P-8, Seized and sealed articles were sent to the Forensic Science Laboratory, Jaipur vide Ex.P-11 and the receipt obtained from the FSL is Ex.P-12, statements of the witnesses were recorded, statement of the prosecutrix under Section 164, Cr.P.C., was also got recorded before the Judicial Magistrate, Nohar, District – Hanumangarh vide Ex.P-15. Ex.P-17 is the specimen seals and Ex.P-18 is the result of the examination of the FSL Report. Ex.P-19A is the Register, describing the stolen and seized articles.

After completing the aforesaid investigation, the Police filed challans against both the accused under Sections 447 and 376 (2) (g), IPC, in the Court of the Additional Chief Judicial Magistrate, Nohar, who, in turn, committed the case for trial to the Court of the Additional Sessions Judge, Nohar, District – Hanumangarh.

After hearing the submissions of the learned counsel for the parties, the learned Additional Sessions Judge, Nohar framed charges against both the accused under Sections 376 (2) (g), IPC, and Section 447, IPC. Both the accused pleaded not guilty and claimed trial.

In order to prove its case, the prosecution produced and examined as many as 11 witnesses (P.W.1 to P.W.11) and exhibited 19 documents (Ex.P-1 to Ex.P-19A). In defence, accused examined one witness D.W.1 Prabhu Singh. The explanations of both the accused were recorded under Section 313, Cr.P.C.. They denied the prosecution evidence appearing against them and stated that they have been falsely implicated.

After hearing the final submissions of the learned counsel for both the parties and examining the evidence available on record, the trial Court, vide its Judgment dated 28.09.2001, convicted and sentenced both the accused-appellants as mentioned above.

Being aggrieved by the Judgment dated 28.09.2001, both the accused-appellants, namely, Mahaveer @ Krishan and Balveer have preferred the instant appeal.

It is submitted by the learned counsel for the accused-appellants that the First Information Report was lodged after initiation of the investigation. The prosecutrix Smt.Roshani, in her statement, stated that the Police came to the village in the evening, prepared the site plan and got her thumb impression, whereas PW 2 Dharmpal has stated that they went to the Police

Station at 7.00 P.M. and started from the village at 6.00 P.M. , the Police came to the village in the evening, prepared the site plan and got her thumb impression and lodged the report at 8.00 P.M. and, thereafter, the Police started investigation. Thus, according to the learned counsel, the FIR is post investigation document and on account of that the entire investigation stands vitiated.

It is further submitted by the learned counsel for the accused-appellants that there are grave contradictions in the statements of the prosecution witnesses. The presence of Mahaveer Singh is not proved on the spot. The prosecution has not produced any independent witness and Dharmpal is not a believable witness. PW 8 Smt.Roshani said that when Mahendra Singh came to the field, the accused had gone out, whereas PW 7 Mahendra Singh stated that he saw the accused-appellants running towards the village. Thus, in such a situation, their evidence is unbelievable. Virendra Jakhar (P.W.10) stated that there were many persons in the field nearby, which creates doubts in the statements of Mahendra Singh and Smt.Roshani. Smt.Roshani has deposed that the cottage was open from front and back and she could have seen the persons coming from a distant place and Mahendra Singh could have also seen the accused from a distant place. Further she says that when Mahendra Singh entered into the cottage, she was sitting in the

cottage and did not come out and kept sitting. Thus, it shows that her conduct is unnatural and she did not try to run away. Her trouser was fully opened which is impossible and after rape by one accused, another came from outside and she did not try to run away from the cottage. According to the learned counsel, the prosecution story is not proved from the statement of the prosecutrix herself.

It is also submitted by the learned counsel for the accused-appellants that when the prosecutrix says that she took the food for her brother-in-law Mahendra Singh to the field. She further says that they (the prosecutrix and the wife of Mahendra Singh) are real sisters and they cook their food separately. The wife of Mahendra Singh was at home. When the wife of Mahendra Singh was at home and she cooks food separately, then the wife of Mahendra Singh could have gone to the field and going of the prosecutrix to the field cannot be believed. According to the learned counsel, DW 1 Prabhu Singh, whose field is also situate nearby the field of the prosecutrix, but he did not see any body going to the field of the prosecutrix.

It is contended by the learned counsel for the accused-appellants that nothing was found on the vagina swab in the FSL report.

It is further contended by the learned counsel for the

accused-appellants PW 3 Bhadar Ram, who is Motbir of arrest memo and PW 4 Prakash, who is also a Motbir of the arrest memo, have been declared hostile by the prosecution.

While submitting the sworn-in affidavits of Smt.Dhanni w/o. Accused-appellant Balveer and Smt.Parmeshwari w/o. Accused-appellant Mahaveer, almost in one and the same stereotype language, it is contended by the learned counsel for the accused-appellants that accused Balveer has a daughter of marriageable age of 18 years and other children - Aaju aged 11 years, Rajendra aged 9 years and Bimla aged 5 years. In the absence of the accused-appellant Balveer, no one is bread-earner in their family and his wife presently remains seriously ill and there is no source of earning. Apart from that, it is mentioned in the affidavit submitted by the wife of the accused Balveer that engagement of her daughter Ratna has taken place and the marriage will take place subsequently. In support of her sworn-in affidavit, Smt.Dhanni, wife of accused Balveer, has submitted a xerox copy of the Ration Card, showing that the children are minor. Similarly, Smt.Pameshwari W/o. accused Mahaveer has filed a sworn-in affidavit, along with a xerox copy of the Ration Card, stating therein that the accused has minor children, namely, son - Gurmit aged 9 years and daughter - Suman 5 years. There is none in the family to look after them and to earn the livelihood in the absence of the accused. Earlier,

when she fell ill, she was treated at Primary Health Centre, Rawatsar. She further stated in the affidavit, that she has no income, except agriculture.

While arguing the case for reducing the sentence of both the accused – Mahaveer @ Krishna and Balveer from 10 years RI to 7 years RI, learned counsel for the accused-appellants has relied on the cases of Madan Singh v. State of Rajasthan (2006 (1) R.Cr.D. 265), Bhanji v. State of Rajasthan (2005 (2) Cr.L.R. (Raj.) 1610), Sohan Singh & Another v. State of Rajasthan (2003 (1) R.Cr.D.124 (Raj.)) and State of Chattisgarh v. Derha (2004 (2) WLC (SC) Criminal 7), in support of his aforesaid contentions. But, in view of the peculiar facts and circumstances of the instant case, more particularly the fact that the crime of rape is a heinous crime and the punishment must fit the crime and it is the duty of the Court to impose a proper punishment depending on the degree of criminality and desirability for imposing such punishment, the aforesaid authorities relied upon by the learned counsel for the accused-appellants are of no help or assistance to him. It is pertinent to mention here that the provisos to Sections 376 (1) and 376 (2), IPC, give the power to the Court to award a sentence lesser than the minimum for “adequate” and “special reasons”, but the power under the proviso is not to be used indiscriminately or routinely. It is to be used sparingly and only in cases where special facts and

circumstances justify a reduction of sentence.

On the other hand, learned Public Prosecutor has supported the impugned judgment of the trial Court. He invited the attention of this Court to the statement of the prosecutrix Smt.Roshni (P.W.8), in which while giving sequence of events accurately, she has clearly deposed that both the accused Mahaveer and Balveer committed rape with her forcefully, without her consent and against her wishes. She was subjected to cross-examination at a great length, but, nothing could be elicited from her cross-examination which may discredit her testimony. Thus, according to the learned Public Prosecutor, her testimony remained unshaken and unshattered during the course of cross-examination. Learned Public Prosecution also submitted that why a lady would implicate for rape, particularly these two accused-appellants falsely, without committing rape by them with her against her wishes. According to the learned Public Prosecutor, the testimony of Smt.Roshni (the prosecutrix) stands corroborated from the statement of Dr.J.P.Swamy (P.W.5), in which he has specifically deposed that bruise injuries were found on her wrist, upper part of the balley, both the sides of the neck, left side of the back, on both the thighs, around the rectum and both the buttocks. In the opinion of the Doctor, rape was committed with her Apart from that, it also stands proved from the sequence of events given by the prosecutrix in her statement

recorded under Section 164, Cr.P.C., before the Civil Judge (Junior Division) and Judicial Magistrate, Nohar. According to the result of examination of FSL Report, human semen was detected on Exhibit 1 'salwar' and Exhibits 2 and 3 'kachhas'. In this view of the matter, learned Public Prosecutor submits that the prosecution has proved the guilt against both the accused-appellants beyond reasonable doubt, so the conviction and sentence awarded by the trial Court should be affirmed.

It is submitted by the learned counsel for the complainant that from the aforesaid facts and circumstances as well as the statement of the prosecutrix corroborated by the medical evidence, the case stands fully proved against the accused-appellants beyond reasonable doubt. It is further submitted that there was no enmity between the prosecutrix and the accused-appellants, yet a serious offence like rape by outraging her modesty has been committed by them. It is also submitted by the learned counsel for the complainant that in the case of rape, when the statement of the prosecutrix is trustworthy, then her statement alone, without corroboration, is sufficient to convict the accused-appellants. He submits that in this case, the statement of the prosecutrix is firm and trustworthy, supported by the medical evidence and the FSL report.

In support of his submissions, the learned counsel for the complainant has placed reliance on the case of Sri Narayan

Saha v. State of Tripura (AIR 2005 SC 1452), in which it was held by their Lordships of the Supreme Court that a prosecutrix of a sex offence cannot be put on par with an accomplice. She is in fact a victim of the crime. The Evidence Act, 1872 nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness under Section 118 and her evidence must receive the same weight as is attached to an injured in cases of physical violence. The same degree of care and caution must attach in the evaluation of her evidence as in the case of an injury complainant or witness and no more. What is necessary is that the Court must be alive to and conscious of the fact that it is dealing with the evidence of person who is interested in the outcome of the charge levelled by her. If the Court keeps this in mind and feels satisfied that it can act on the evidence of the prosecutrix, there is no rule of law or practice incorporated in the Evidence Act similar to Illustration (b) to Section 114 which requires it to look for corroboration. If for some reason, the Court is hesitant to place implicit reliance on the testimony of the prosecutrix it may look for evidence which may lend assurance to her testimony short of corroboration required in the case of an accomplice. The nature of evidence required to lend assurance to the testimony of the prosecutrix must necessarily depend on the facts and circumstances of each case. But if a prosecutrix is an

adult and of full understanding the Court is entitled to base a conviction on her evidence unless the same is shown to be infirm and not trustworthy. If the totality of the circumstances appearing on the record of the case disclose that the prosecutrix does not have a strong motive to falsely involve the person charged, the Court should ordinarily have no hesitation in accepting her evidence.

Similarly, in *State of M.P. v. Bala @ Balaram* (2005) 8 SCC 1, it was held by their Lordships of the Supreme Court that the rape is a heinous crime, for which minimum sentence is ten years RI, which cannot be reduced below that period without assigning of "adequate and special reasons"

Heard learned counsel for the parties.

So far as the contentions of the learned counsel for the accused-appellants that FIR was lodged after initiation of the investigation, there are contradictions in the statements of the prosecution witnesses, the presence of Mahaveer Singh is not proved on the spot, PW 3 Bhadar Ram and PW 4 Prakash Motbir witnesses have been declared hostile, the prosecutrix and the wife of Mahendra Singh are real sisters, they cook food separately and when the wife of Mahendra Singh was at home, why the prosecutrix went to the field to give food to Mahendra Singh cannot be believed – are concerned, it may be mentioned that the prosecutrix – Smt.Roshni (P.W.8) has deposed in her

cross-examination that the Police visited the same day on which the report was lodged. She further deposed that the report was lodged in the evening. The incident had taken place on 11.10.2000 around 12 noon. The report was lodged on the same day at 8.00 P.M. and the investigation commenced immediately. So far as presence of Mahaveer Singh is concerned, it stands fully proved from the statement of the prosecutrix as well as Mahendra Singh (P.W.7) that Mahaveer and Balveer Singh visited the field of the prosecutrix and committed rape with her forcibly against her wishes. Mahahendra Singh has deposed that he has seen the accused running from the field towards the village after committing the crime. With regard to contradictions in the statements of the prosecution witnesses as alleged by the learned counsel for the accused-appellants, it may be pointed out that some variations in the matters of detail is but natural, and much depends on the capacity of a witness to observe and remember events, particularly in matters of minor details. Minor discrepancies of the witnesses do not warrant rejection of their evidence. Their deposition is natural and consistent with the case of the prosecution and I find no reason as to why they should be disbelieved. Further, if the motbir witnesses of arrest turn hostile, then it does not affect the prosecution case. So far as the affidavits filed by the wives of both the accused-appellants are concerned, it may be mentioned that everyone has minor

children. Equally it is true that the minor children become major and the major turns into young and the young turns into old. It may be mentioned that no medical certificate with regard to the ailment has been produced in support of the affidavits, filed by the wives of both the accused. But, certainly, these are not adequate or special reasons to warrant interference in the conviction and sentenced recorded by the learned trial Court or to set at liberty the accused or reduce the sentence of rapists, as they have put a stigma on the forehead of a young rural lady. The Court cannot forget its duty towards the victim as well as society at large.

PW 8 Smt. Roshni (the prosecutrix) has clearly deposed that while she was sitting in the hut, situate in the field, accused Mahaveer @ Krishna came to her in the hut and forcibly committed rape with her against her wishes and, thereafter, the rape was committed by Balveer also, against her wishes and when she raised hue and cry, she was threatened to kill. Similarly, PW 5 Dr. J. P. Swamy has deposed that on external examination of the prosecutrix, he found the bruises on outer and upper part of the wrist, upper part of the stomach, both the sides of neck, back, left side of spines, inner portion of the thighs, around the rectum and buttock. On internal examination of the prosecutrix, the Doctor found that there were red signs around the labia. The Doctor also stated swab and pubic hairs

were sealed and sent for chemical examination. In the opinion of the Doctor, marks of violence were present and on microscopic examination of the vaginal swab, sperms of RBC were found and, according to the Doctor, the rape has been committed with the lady under examination. Similarly, on examination of both the accused, the Doctor opined in Exs.P-6 and P-7 "nothing was found which could have suggested the persons to be not able to sexual intercourse". On FSL examination, human semen was detected on 'salwar' and 'kachhas'.

It may be mentioned that sexual violence apart from being a dehumanizing act is an unlawful intrusion on the right of privacy and sanctity of a female. It is a serious blow to her supreme honour and offends her self-esteem and dignity it degrades and humiliates the victim and when the victim is a helpless rural lady, it leaves behind a traumatic experience. A rapist not only causes physical injuries but more indelibly leaves a scar on the most cherished possession of a woman, i.e, her dignity, honour, reputation and not the least her chastity. Rape is not only a crime against the person of a woman, but it is a crime against the entire society.

Sexual violence destroys the entire psychology of a woman and pushes her into deep emotional crisis as noted in **Shri Bodhisattwa Gautam v. Miss Subhra Chakraborty**

(AIR 1996 SC 922). It is a crime against basic human rights, and is also violative of the victim's most cherished of the Fundamental Rights, namely, the Right to Life contained in Article 21 of the Constitution of India, 1950 (in short, the 'Constitution').

The Courts are, therefore, expected to deal with cases of sexual crime against women with utmost sensitivity. Such cases need to be dealt with sternly and severely. A social sensitized judge, in our opinion, is a better statutory armour in cases of crime against women than long clauses of penal provisions, containing complex exceptions and provisos.

The physical scar may heal up, but the mental scar will always remain. When a woman is ravished, what is inflicted is not merely physical injury but the deep sense of some deathless shame. An accused cannot cling to a fossil formula and insist on corroborative evidence, even if taken as a whole, the case spoken to by the victim strikes a judicial mind as probable. Judicial response to human rights cannot be blunted by legal jugglery.

In the Indian Setting refusal to act on the testimony of the victim of sexual assault in the absence of corroboration a rule, is adding insult to injury. A girl or a woman in the tradition bound

non-permissive society of India would be extremely reluctant even to admit that any incident which is likely to reflect on her chastity had ever occurred. She would be conscious of the danger of being ostracized by the society and when in the face of these factors the crime is brought to light, there is inbuilt assurance that the charge is genuine rather than fabricated. Just as a witness who has sustained an injury, which is not shown or believed to be self-inflicted, is the best witness in the sense that he is least likely to exculpate the real offender, the evidence of a victim of sex offence is entitled to great weight, absence of corroboration notwithstanding. A woman or a girl who is raped is not an accomplice. Corroboration is not the sine qua non for conviction in a rape case. In this regard, observations made by their Lordships of the Supreme Court in the case of **Rameshwar v. The State of Rajasthan (AIR 1952 SC 54)** read as under :-

"The rule, which according to the cases has hardened into one of law, is not that corroboration is essential before there can be a conviction but that the necessity of corroboration, as a matter of prudence, except where the circumstances make it safe to dispense with it, must be present to the mind of the judge...."

The measure of punishment in a case of rape cannot depend upon the social status of the victim or the accused. It must depend upon the conduct of the accused, the state and age of

the sexually assaulted female and the gravity of the criminal act. Crimes of violence upon women need to be severely dealt with. The socio-economic status, religion, race, caste or creed of the accused or the victim are irrelevant considerations in sentencing policy. Protection of society and deterring the criminal is the avowed object of law and that is required to be achieved by imposing an appropriate sentence. The sentencing Courts are expected to consider all relevant facts and circumstances bearing on the question of sentence and proceed to impose a sentence commensurate with the gravity of the offence. Courts must hear the loud cry for justice by the society in cases of the heinous crime of rape on innocent helpless girls of tender years, as in this case, and respond by imposition of proper sentence.

Public abhorrence of the crime needs reflection through imposition of appropriate sentence by the Court. There are no extenuating or mitigating circumstances available on the record which may justify imposition of any sentence less than the prescribed minimum on the respondent. To show mercy in the case of such a heinous crime would be a travesty of justice and the plea for leniency is wholly misplaced.

The legislative mandate to impose a sentence of the offence of rape for a term which shall not be less than 10 years, but which may extend to life and also to fine reflects the intent of stringency in sentence. The proviso to Section 376 (2), IPC,

of course, lays down that the Court may, for adequate and special reasons to be mentioned in the judgment, impose sentence of imprisonment of either description for a term of less than 10 years. Thus, the normal sentence in a case, where rape is committed, is not less than 10 years, RI, though in exceptional cases "for special and adequate reasons" sentence of less than 10 years' RI can also be awarded. It is a fundamental rule of construction that a proviso must be considered with relation to the principal matter to which it stands as a proviso particularly in such like penal provisions. The Courts are obliged to respect the legislative mandate in the matter of awarding of sentence in all such cases. Recourse to the proviso can be had only for "special and adequate reasons" and not in a casual manner. Whether there exist any "special and adequate reasons" would depend upon a variety of facts and the peculiar facts and circumstances of each case. No hard and fast rule can be laid down in that behalf of universal application.

In view of the discussion made above, I am of opinion that it stands fully proved from the statements of the prosecution witnesses, particularly that of prosecutrix, as well as the medical opinion given by the Doctor and FSL report that the offence has been committed by the accused appellants Mahaveer @ Krishan and Balveer and none else. So far as reduction of sentence, as contended by the learned counsel for the accused-appellants, is

concerned, in view of the aforesaid peculiar facts and circumstances of the present case, no lenient view is required to be taken. Apart from that, there appears to no special or adequate reasons, requiring interference with the findings arrived at by the learned trial Court. There was no reason as to why a woman, more particularly a married woman would falsely implicate these two accused persons. Minor discrepancy in the statements of the witnesses does not warrant any interference, rather it strengthens the case of the prosecution that the witness has not been tutored. The judgment of the learned trial Court is perfect and justified and is based on sound reasonings and appreciation of the evidence on record.

In the result, I find no force in the appeal. The same is, therefore, dismissed.

Scd.

(R.P. VYAS),J.